

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION

SHOWCOAT SOLUTIONS, LLC,)	
)	
Plaintiff,)	
)	
v.)	Case No. 1:18-cv-789-ALB
)	
ANDY BUTLER, individually and)	
d/b/a Butler Cattle Company,)	
HARMON BUTLER, CHRIS)	
WILSON, individually and d/b/a)	
Wilson Farms, and CODE BLUE,)	
LLC,)	
)	
Defendants.)	

ORDER

This matter comes before the court on Plaintiff ShowCoat Solutions, LLC's Motion for Contempt, (Doc. 30), Defendant Andy Butler's Counter Motion for Contempt, (Doc. 38), and ShowCoat's Supplemental Brief in Support of Motion for Contempt. (Doc. 61). The magistrate judge held a hearing on the motion and then filed a report and recommendation that the motion be denied. (Doc. 82). He also recommended that (1) Plaintiff hire an expert to attempt to recover the information from the cell phone at Defendant's expense, (2) any unrecoverable evidence result in an adverse inference, and (3) Defendant pay for all expenses associated with recovery of the evidence and for the attorney's fees and expenses associated with Plaintiff's supplement (Doc. 61) to its Motion for Contempt. (Doc. 82 at 11).

ShowCoat did not file any objections to the report and recommendation. Butler had no objection. (Doc. 87).

Upon consideration *de novo* of all the materials, including the report and recommendation, the report is ADOPTED and the recommendation is ACCEPTED. Consequently, Plaintiff's Motion for Contempt is GRANTED in part and DENIED in part, and Butler's Counter Motion for Contempt is DENIED, as stated in the report and recommendation.

Plaintiff ShowCoat is DIRECTED to file as soon as practicable but not later than December 5, 2019 an expert statement, declaration, or report pertaining to unrecoverable evidence from the cell phone that may warrant an adverse inference under the report and recommendation.

Plaintiff ShowCoat is also DIRECTED to file as soon as practicable but not later than December 5, 2019, a petition for attorney's fees and costs reasonably incurred: (1) hiring an expert to recover the information from the cell phone; and/or (2) filing Plaintiff's supplement to its Motion for Contempt.

DONE and **ORDERED** this 5th day of August 2019.

/s/ Andrew L. Brasher
ANDREW L. BRASHER
UNITED STATES DISTRICT JUDGE